

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

ABEL MESA,

*Plaintiff,*

V.

THE CITY OF SAN ANTONIO, ACTING  
BY AND THROUGH ITS AGENT, CITY  
PUBLIC SERVICE BOARD D/B/A CPS  
ENERGY

*Defendant.*

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CIVIL ACTION NO. 5:17-cv-00654 -XR

JURY TRIAL DEMANDED

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**JOINT NOTICE OF RULE 26(F) CONFERENCE AND THE PARTIES' PROPOSED  
SCHEDULING ORDER**

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Pursuant to Federal Rules of Civil Procedure 16 and 26, and Local Court Rule of the United States District Court for the Western District of Texas CV-16, the Parties provide the Court notice of the following:

1. On September 7, 2017, counsel for Defendant and Plaintiff conferred via teleconference, as required by Rule 26(f) of the Federal Rules of Civil Procedure.
2. The Parties submit a proposed Scheduling Order, attached to this notice as Exhibit A, in compliance with Rule 26(f) of the Federal Rules of Civil Procedure, Rule CV-16 of the Western District of Texas Local Rules, and the Scheduling Order template provided by the Court.

Respectfully submitted,

/s/ Christine E. Reinhard

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**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

On September 7, 2017, a true and correct copy of this document was filed electronically, with notice of the filing served on all counsel of record by operation of the Court's electronic filing system. All parties may access this filing through the Court's electronic filing system.

/s/ Christine E. Reinhard

Christine E. Reinhard

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**JOINT PROPOSED SCHEDULING ORDER**

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The parties recommend that the following deadlines be entered in the scheduling order to control the course of this case:

**MOTIONS FOR LEAVE TO AMEND PLEADINGS.**

The deadline for Plaintiff(s) to file a motion seeking leave to amend pleadings; or to join parties is **October 16, 2017.**

The deadline for Defendant(s) to file a motion (1) to designate responsible third parties, pursuant to Texas Civil Practices & Remedies Code § 33.004(a); (2) seeking leave to amend pleadings; or (3) to join parties is **October 31, 2017.**

**EXPERTS**

All parties asserting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Fed. R. Civ. P. 26(a)(2)(B) on or before **November 29, 2017.**

Parties resisting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Fed. R. Civ. P. 26(a)(2)(B) on or before **December 29, 2017**.

All parties shall file all designations of rebuttal experts and serve on all parties the material required by Fed. R. of Civ. P. 26(a)(2)(B) for such rebuttal experts, to the extent not already served, within fifteen (15) days of receipt of the report of the opposing expert.

An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within eleven (11) days from the receipt of the written report of the expert's proposed testimony, or within eleven (11) days from obtaining a copy of the expert's deposition, if a deposition is taken, whichever is later.

The deadline for filing supplemental reports required under Fed. R. Civ. P. 26(e) is **January 19, 2018**.

#### **WITNESS LIST, EXHIBIT LIST, AND PRETRIAL DISCLOSURES**

The deadline for filing Rule 26(a)(3) disclosures is **June 1, 2018**.

The deadline for filing objections under Rule (26)(a)(3) is **June 15, 2018**. Any objections not made will be deemed waived.

#### **COMPLETION OF DISCOVERY**

Written discovery requests are not timely if they are filed so close to this deadline that under the Federal Rules of Civil Procedure the response would not be due until after the deadline.

The deadline for the completion of all discovery is **March 2, 2018**.

### **ALTERNATIVE DISPUTE RESOLUTION (ADR) REPORT**

A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be filed on or before **December 4, 2017**.

The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before **December 4, 2017**, and each opposing party shall respond, in writing on or before **December 18, 2017**.

All offers of settlement are to be private, not filed. The parties are ordered to retain the written offers of settlement and response as the Court will use these in assessing attorneys' fees and costs at the conclusion of the proceedings.

If a settlement is reached, the parties should immediately notify the Court so the case may be removed from the Court's trial docket.

### **PRETRIAL MOTIONS**

No motion (other than a motion in limine) may be filed after this date except for good cause. The deadline to file motions (including dispositive motions and Daubert motions) **March 30, 2018**. This deadline is also applicable to the filing of any summary judgment motion under Fed. R. Civ. P. 56 and any defense of qualified immunity. Leave of court is automatically given to file motions, responses, and replies not to exceed 30 pages in length. Fed. R. Civ. P. 6(d) does not apply to the time limits set forth in Local Rule CV-7 for responses and replies to motions.

### **JOINT PRETRIAL ORDER AND MOTION IN LIMINE**

The deadline to file a Final Joint Pretrial Order and any motion in limine is **June 15, 2018**.

All attorneys are responsible for preparing the Final Joint Pretrial Order, which must contain the following:

- (1) a short statement identifying the Court's jurisdiction. If there is an unresolved jurisdictional

question, state it;

- (2) a brief statement of the case, one that the judge could read to the jury panel for an introduction to the facts and parties;
- (3) a summary of the remaining claims and defenses of each party;
- (4) a list of facts all parties have reached agreement upon;
- (5) a list of contested issues of fact;
- (6) a list of the legal propositions that are not in dispute;
- (7) a list of contested issues of law;
- (8) a list of all exhibits expected to be offered. Counsel will make all exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before the final pre-trial conference. The exhibit list should clearly reflect whether a particular exhibit is objected to or whether there are no objections to the exhibit;
- (9) a list of the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony;
- (10) an estimate of the length of trial;
- (11) for a jury trial, include (a) proposed questions for the voir dire examination, and (b) a proposed charge, including instructions, definitions, and special interrogatories, with authority;
- (12) for a nonjury trial, include (a) proposed findings of fact and (b) proposed conclusions of law, with authority;
- (13) the signatures of all attorneys; and
- (14) a place for the date and the signature of the presiding judge.

**FINAL PRETRIAL CONFERENCE**

The Final Pretrial Conference shall be held on \_\_\_\_\_[THIS DATE WILL BE COMPLETED BY THE COURT].

Motions in limine, if any, will be heard on this date. Counsel should confer prior to this hearing on any issues raised in a motion in limine or the Joint Pretrial Order. Any party intending to use a demonstrative exhibit should provide the same to opposing counsel at least 3 days prior to the Final Pretrial conference so that if any objections or issues are raised about the demonstrative exhibit, they can be addressed at the final pretrial conference.

**TRIAL**

The Trial Date is **July 16, 2018**. [PARTIES MAY SUGGEST A TRIAL DATE. IT IS RECOMMENDED THAT THE PARTIES CONTACT THE COURTROOM DEPUTY TO DETERMINE AVAILABILITY ON THE COURT CALENDAR].

With the exception of the dispositive motion deadline and the dates set for the final pretrial conference and trial, upon agreement of the parties and submission of an agreed motion, the deadlines set forth herein may be extended by Order of this Court. The Court may impose sanctions under Rule 16(f), Fed. R. Civ. P., if the parties do not make timely submissions under this Order.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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XAVIER RODRIGUEZ  
UNITED STATES DISTRICT JUDGE